

§ 1.1244(e)-1

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(b) *Example.* The provisions of this section may be illustrated by the following example:

Example: A, a single individual, computes a net operating loss of \$15,000 for 1980 in accordance with the rules of § 1.172-3, relating to net operating loss in case of a taxpayer other than a corporation. Included within A's computation of this net operating loss is a deduction arising under section 1244 for a loss on small business stock. A had no taxable income in 1977, 1978, or 1979. Assume that A can carry over the entire \$15,000 loss under the rules of section 172. In 1981 A has gross income of \$75,000 and again sustains a loss on section 1244 stock. The amount of A's 1981 loss on section 1244 stock is \$50,000. A may deduct the full \$50,000 as an ordinary loss under section 1244 and the full \$15,000 as a net operating loss carryover in 1981.

[T.D. 7779, 46 FR 29473, June 2, 1981]

§ 1.1244(e)-1 Records to be kept.

(a) *By the corporation.*—(1) *Mandatory records.* A plan to issue pre-November 1978 stock must appear upon the records of the corporation. Any designation of post-November 1978 stock under § 1.1244(c)-2(b)(2) also must appear upon the records of the corporation.

(2) *Discretionary records.* In order to substantiate an ordinary loss deduction claimed by its shareholders, the corporation should maintain records showing the following:

(i) The persons to whom stock was issued, the date of issuance to these persons, and a description of the amount and type of consideration received from each;

(ii) If the consideration received is property, the basis in the hands of the shareholder and the fair market value of the property when received by the corporation;

(iii) The amount of money and the basis in the hands of the corporation of other property received for its stock, as a contribution to capital, and as paid-in surplus;

(iv) Financial statements of the corporation, such as its income tax returns, that identify the source of the gross receipt of the corporation for the period consisting of the five most recent taxable years of the corporation, or, if the corporation has not been in existence for 5 taxable years, for the period of the corporation's existence;

(v) Information relating to any tax-free stock dividend made with respect to section 1244 stock and any reorganization in which stock is transferred by the corporation in exchange for section 1244 stock; and

(vi) With respect to pre-November 1978 stock;

(A) Which certificates represent stock issued under the plan;

(B) The amount of money and the basis in the hands of the corporation of other property received after June 30, 1958, and before the adoption of the plan, for its stock, as a contribution to capital, and as paid-in surplus; and

(C) The equity capital of the corporation on the date of adoption of the plan.

(b) *By the taxpayer.* A person who claims an ordinary loss with respect to stock under section 1244 must have records sufficient to establish that the taxpayer is entitled to the loss and satisfies the requirements of section 1244. See also section 6001, requiring records to be maintained.

In addition, a person who owns section 1244 stock in a corporation shall maintain records sufficient to distinguish such stock from any other stock he may own in the corporation.

[T.D. 6495, 25 FR 9681, Oct. 8, 1960, as amended by T.D. 7779, 46 FR 29473, June 2, 1981; 46 FR 31881, June 18, 1981; T.D. 8594, 60 FR 20898, Apr. 28, 1995]

§ 1.1245-1 General rule for treatment of gain from dispositions of certain depreciable property.

(a) *General.* (1) In general, section 1245(a)(1) provides that, upon a disposition of an item of section 1245 property, the amount by which the lower of (i) the *recomputed basis* of the property, or (ii) the amount realized on a sale, exchange, or involuntary conversion (or the fair market value of the property on any other disposition), exceeds the adjusted basis of the property shall be treated as gain from the sale or exchange of property which is neither a capital asset nor property described in section 1231 (that is, shall be recognized as ordinary income). The amount of such gain shall be determined separately for each item of section 1245 property. In general, the term *recomputed basis* means the adjusted basis of